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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

W. A. DREW EDMONDSON, in his)
capacity as ATTORNEY GENERAL)
OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT,)
in his capacity as the)
TRUSTEE FOR NATURAL RESOURCES)
FOR THE STATE OF OKLAHOMA,)

Plaintiff,)

vs.)

TYSON FOODS, INC., et al,)

Defendants.)

4:05-CV-00329-TCK-SAJ

- - - - -

THE VIDEOTAPED 30(b)(6)
DEPOSITION OF BENNY McCLURE, produced as a
witness on behalf of the Plaintiff in the above
styled and numbered cause, taken on the 15th day of
August, 2007, in the City of Fayetteville, County of
Washington, State of Arkansas, before me, Lisa A.
Steinmeyer, a Certified Shorthand Reporter, duly
certified under and by virtue of the laws of the
State of Oklahoma.

A P P E A R A N C E S

FOR THE PLAINTIFFS:

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Tulsa, OK 74119
-and-
Mr. Louis W. Bullock
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FOR TYSON FOODS:

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FOR CARGILL:

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Mr. Colin Tucker (via
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-and-
Mr. Tim Alsup (via phone)

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1 FOR GEORGE'S:

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9 FOR WILLOW BROOK:

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Jefferson City, MO 65109
(Via phone)

I N D E X

W I T N E S S

P A G E

BENNY McCLURE

Direct Examination by Mr. Garren

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Signature Page

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Reporter's Certificate

260

1 (Whereupon, the deposition began at 9:03
2 a.m.)

3 MR. GARREN: Again, for the Record I'm
4 going to invoke the Rule of Sequestration. In the
5 event that you leave the conference from the
6 telephone, please announce when you've left and when
7 you're coming in so we know who is in attendance at
8 the time of deposition. If everybody can agree to
9 that, fine. If not, let me know.

09:03AM

10 (Whereupon, a discussion was held off
11 the Record.)

09:04AM

12 VIDEOGRAPHER: We are now on the Record for
13 the deposition of Mr. Benny McClure. Today is
14 August 15th, 2007. The time is 9:04 a.m. Would
15 counsel please identify themselves for the Record?

09:05AM

16 MR. GARREN: Richard Garren for the State
17 of Oklahoma.

18 MR. BULLOCK: Louis Bullock for the State
19 of Oklahoma.

20 MR. GRAVES: James Graves for George's,
21 Inc., and George's Farms, Inc.

09:05AM

22 MS. HILL: Theresa Hill for Cargill Turkey
23 Production, LLC and Cargill, Inc.

24 MR. HIXON: Philip Hixon for Peterson
25 Farms, Inc.

09:05AM

1 MR. TUCKER: Colin Tucker joining Theresa
2 Hill for the two Cargill entities, and I'm here with
3 Tim Alsup, the Cargill representative.

4 MS. THOMPSON: Erin Thompson for the Tyson
5 defendants. 09:05AM

6 MR. MIRKES: Craig Mirkes with Philip
7 Hixon.

8 MR. ELROD: John Elrod with Simmons Foods.

9 MR. GARREN: Go ahead, Jennifer.

10 MS. GRIFFIN: Jennifer Griffin for Willow
11 Brook. 09:06AM

12 MR. SANDERS: Bob Sanders for the Cal-Maine
13 defendants.

14 VIDEOGRAPHER: Thank you. The witness may
15 be sworn.

16 BENNY McCLURE
17 having first been duly sworn to testify the truth,
18 the whole truth and nothing but the truth, testified
19 as follows:

20 MR. GRAVES: Before we get started and I 09:06AM
21 won't have to do this again later, we had a number
22 of objections to the notice of deposition, from the
23 amended notice of deposition for the deposition
24 today which were outlined in a letter to counsel for
25 the State, Richard Garren, on July 20th of 2007, and 09:06AM

1 **A** I do not know that.

2 **Q** Okay. When you say George's of Missouri is an
3 affiliate, explain to me what that affiliation is.

4 **A** In practical terms, George's of Missouri --

5 the broiler contract, the grow-out contracts are

09:19AM

6 under George's of Missouri, and George's of Missouri
7 grows the birds for George's, Inc.

8 **Q** Does George's of Missouri actually own the
9 birds or is it George's, Inc., that own the birds?

10 **A** I believe that George's, Inc., owns the birds.

09:20AM

11 **Q** Okay. Do you know how long George's of
12 Missouri has existed as an entity?

13 **A** Ten to fifteen years. I can't give you an
14 exact year. I know it's in that ten to fifteen
15 year.

09:20AM

16 **Q** Is it a corporation?

17 **A** Yes.

18 **Q** Do you know where it was incorporated; what
19 state?

20 **A** It's my belief that it was in Arkansas.

09:20AM

21 **Q** All right. Do you know who the board members
22 are of George's of Missouri?

23 **A** I don't know who all the board members are,
24 no.

25 **Q** Can you tell me the ones that you do know?

09:21AM

1 **A** No.

2 **Q** State of Missouri?

3 **A** No.

4 **Q** Okay. State of Virginia?

5 **A** No.

09:41AM

6 **Q** The IRW -- the poultry barns located in the
7 IRW, does George's, Inc., own those facilities?

8 MR. GRAVES: Object to the form.

9 **A** George's, Inc., owns one farm in the Illinois
10 River watershed.

09:42AM

11 **Q** Okay, and is that a broiler farm?

12 **A** Yes.

13 **Q** Do you know the name of that farm?

14 **A** Morrison Farm.

15 **Q** Has it owned more than one farm in the past
16 within the IRW?

09:42AM

17 MR. GRAVES: Object to the form.

18 **A** That is the only farm that George's,
19 Incorporated, has owned in the watershed that I'm
20 aware of.

09:42AM

21 **Q** Okay. Has George's or any subsidiaries of
22 George's owned any other farms in the IRW now or in
23 the past?

24 **A** I'm not trying to dodge your question. I'm
25 trying to think of -- there are -- there are other

09:43AM

1 **A** I want to be careful here that I don't start
2 agreeing with things when I'm not really certain
3 what you're asking. From a -- does he inspect the
4 ventilation controls? He will inspect the
5 condition, the growing conditions inside the house. 01:40PM
6 He will go in the house and he will say the
7 temperature is appropriate to produce this age of
8 bird; the air quality is good; the humidity is not
9 too high; the ammonia is not too high. That's what
10 his inspection is geared towards. Will he go and 01:40PM
11 physically inspect all the different pieces of
12 equipment in that house that help provide that
13 environment, no.

14 **Q** That wasn't my question either, but let me ask
15 you this then: Ventilation is important with regard 01:40PM
16 to raising the birds, is it not?

17 **A** Yes, it is.

18 **Q** And many or most of the barns have some type
19 of mechanism that controls how that ventilation is
20 managed? 01:40PM

21 MR. GRAVES: Object to the form.

22 **A** Some type. The types can be greatly varied
23 but some type.

24 **Q** If the inspector determines while he's at the
25 barn that the ventilation isn't as it should be, 01:41PM

1 Q When did it go out of production, if you know?

2 A Approximately two years ago. We -- our --
3 George's presence -- the number of houses that we
4 have under contract in the Illinois River watershed
5 has been going down over the last ten years. We 02:42PM
6 don't have as many houses in production today as we
7 did when that report was printed.

8 Q Is there a reason that's happening?

9 A Yes.

10 Q Is George's making a concerted effort to 02:42PM
11 lessen its exposure to the IRW?

12 MR. GRAVES: Object to the form.

13 A There is a reason why it's happening, but it's
14 not because of the watershed. With our plant in
15 Butterfield, Missouri and the building of the feed 02:42PM
16 mill up there and the hatchery that we have up
17 there, it logistically works better for our presence
18 of contract growers to be between Springdale and
19 Butterfield instead of south of Springdale. So it's
20 a logistics -- 02:43PM

21 Q Those logistics are geared or driven in part
22 as a result of having to deliver feed on a regular
23 basis to the farms and how far you want to travel?

24 A And the higher diesel fuel gets, the more
25 logistical it gets. 02:43PM